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Attorneys for Plaintiffs/Judgment Creditors

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

DR. MICHAEL A. WEINER, et al.,)	CASE NO. 10-CV-05785 YGR
)	
Plaintiffs,)	REQUEST AND PROPOSED ORDER FOR
)	SERVICE OF PROCESS BY REGISTERED
vs.)	PROCESS SERVER
ORIGINAL TALK RADIO)	
NETWORK, INC., etc.,)	[Rules 4.1(a) and 49 of the Federal Rules of Civil
)	Procedure]
Defendant.)	
)	[No Hearing Required]

MARTIN B. GREENBAUM, declares:

1. I am an attorney for the Plaintiffs/Judgment Creditors in this action.

2. Plaintiffs, DR. MICHAEL A. WEINER aka MICHAEL SAVAGE and SAVAGE PRODUCTIONS, INC., pursuant to the provisions of Rules 69, 4.1(a) and 49 of the Federal Rules of Civil Procedure, request that a Registered Process Server be appointed and authorized to act on behalf of the U.S. Marshal.

3. FRCP Rule 69 provides as follows:

FRCP Rule 69. Execution

(a) IN GENERAL.

(1) *Money Judgment; Applicable Procedure.* A money judgment is enforced by a Writ of execution, unless the court directs otherwise. The procedure on execution—and in proceedings supplementary to and in aid of judgment or execution—must accord with the procedure of the state where the court is located, but a federal statute governs to the extent it applies.

1 4. Plaintiff has obtained a Writ of Execution from the U.S. District Court Clerk. A
2 true and correct copy is attached as Exhibit A.

3 5. The State Court procedure is to have the Sheriff of the County to which the Writ
4 of Execution is issued serve the Writ on the party subject to service. However the Sheriff of the
5 County in California will not serve a Writ of Execution unless issued by the Clerk of a Superior
6 Court of California. This means that the Sheriff will not serve or levy a Writ of Execution
7 issued from a Federal court.

8 6. The method of levy is to have the U.S. Marshal serve the Writ of Execution
9 instead of the Sheriff in the County. However the U.S. Marshal does not serve Writs of
10 Execution and requires Judgment Creditors to have a private registered process server appointed
11 to do the physical tasks of going to the location and serving the Writ, all on behalf of the U.S.
12 Marshal.

13 7. We have been advised that the San Francisco U.S. Marshal requires a court order
14 that the private process server be allowed to act in its name even though there is no other
15 alternative.

16 8. This request is made to comply with the requirements of the U.S. Marshal's
17 Office for a Court Order allowing a Private Registered Process Server to physically carry the
18 documents for service and report back to the U.S. Marshal's office directly. The U.S. Marshal's
19 Office will remain the levying officer.

20 9. The attorney service used by Plaintiff/Judgment Creditor's attorney is ABC
21 Legal Services, Inc., who has experience in service of Federal Writs of Execution. Its process
22 servers are at least 18 years of age, of suitable discretion, and are not a party to the within
23 action.

24 10. It is respectfully requested that ABC Legal Services, Inc., who has experience in
25 service of Federal Writs of Execution and whose process servers are at least 18 years of age, of
26 suitable discretion and are not a party to the within action, be authorized and appointed to serve
27 the Writs in the above case. The U.S. Marshal's Office will remain the levying officer.
28

1 I declare under penalty of perjury that the foregoing is true and correct. Executed on
2 November 11, 2015 at Newport Beach, California

3
4 (~~signature on Dkt. No. 92~~)

MARTIN B. GREENBAUM

Attorney for Judgment Creditor

6
7 IT IS ORDERED that ABC Legal Services, Inc., as a registered process server and using
8 an employee who is at least 18 years of age, of suitable discretion, and not a party to the within
9 action, be authorized and appointed to serve the Writs in the above case. The U.S. Marshal's
10 Office will remain the levying officer.

11 This Order terminates Docket Number 92.

12
13 Dated: November 11, 2015

14 

YVONNE GONZALEZ ROGERS

United States District Court Judge